

COX, WOOTTON, LERNER, GRIFFIN & HANSEN LLP

NORMAND R. LEZY 6297-0

E-Mail: nlezy@cwlfirm.com

MICHAEL J. NAKANO 6940-0

E-Mail: mnakano@cwlfirm.com

Davies Pacific Center, Suite 1099

841 Bishop Street

Honolulu, Hawaii 96813

Telephone: (808) 744-7020

Facsimile: (808) 744-7030

Attorneys for Defendant

WAL-MART STORES, INC.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

DAVID LeFELL,

Plaintiff,

vs.

WAL-MART STORES, INC., JOHN  
DOES 1-10; JANE DOES 1-10; DOE  
PARTNERSHIPS, CORPORATIONS,  
or ENTITIES 1-10,

Defendants.

CIVIL NO. 18-00004  
(Other Non-Vehicle Tort)

**NOTICE OF REMOVAL;  
EXHIBIT “A” and “B”;  
CERTIFICATE OF SERVICE**

**NOTICE OF REMOVAL**

TO THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII:

Pursuant to 28 U.S.C. §§1332, 1441, and 1446, Defendant WAL-MART STORES, INC. (“WAL-MART”) files this Notice of Removal in the case now pending in the Circuit Court of the First Circuit, State of Hawaii, styled David

LeFell v. Wal-Mart Stores, Inc., et al., Civil No. 17-1-1964-11 JPC. As grounds for removal, WAL-MART states as follows:

1. On November 30, 2017, Plaintiff DAVID LeFELL (“PLAINTIFF”) filed a complaint in Civil No. 17-1-1964-11 JPC in the Circuit Court of the First Circuit, State of Hawaii, against WAL-MART.

2. Upon information and belief, WAL-MART states that no other party has been named or appeared in the action.

3. WAL-MART was served with the complaint on December 5, 2017.

4. PLAINTIFF alleges in his complaint that WAL-MART is liable to him for damages in connection with a December 18, 2015 accident that occurred on WAL-MART’s premises.

5. PLAINTIFF alleges in his complaint that “Plaintiff DAVID LeFELL was and is a resident of the City and County of Honolulu, State of Hawaii.”

6. Upon information and belief, WAL-MART states that PLAINTIFF is a citizen of the State of Hawaii.

6. PLAINTIFF alleges in his complaint that “[WAL-MART] is a is and at all times relevant herein was a Delaware Corporation whose principal place of business location is in Bentonville, Arkansas, doing business in the City

and County of Honolulu, State of Hawaii."

7. WAL-MART is a citizen of the State of Delaware and of the State of Arkansas.

8. PLAINTIFF alleges in his complaint that as the result of the December 18, 2015 accident, he sustained a "traumatic closed displaced fracture of patella, left, initial encounter," [sic] which required him to undergo surgery under general anesthesia and has resulted in permanent disability.

9. PLAINTIFF alleges in his complaint that as the result of the above-stated injury he has been and continues to be disabled from performing his usual and customary occupation as a "highly-skilled custom woodworker and general contractor."

10. PLAINTIFF prays in his complaint for an award of general damages, special damages, and punitive damages against WAL-MART. However, because Hawaii law prohibits *ad damnum* clauses in complaints, PLAINTIFF does not specify the amount of damages that she prays for.

11. Based upon the above-stated allegations, PLAINTIFF claims damages that exceed the sum or value of \$75,000.00.

12. This court has original jurisdiction over civil actions where the matter in controversy exceeds the sum or value of \$75,000.00 and is between citizens of different States within the meaning of 28 U.S.C. §1332.

13. A true and correct copy of PLAINTIFF's complaint filed in the Circuit Court of the First Circuit, State of Hawaii, is attached hereto as Exhibit "A", and comprises all process, pleadings, and orders served upon WAL-MART in the action.

14. A true and correct copy of WAL-MART's answer to PLAINTIFF's complaint filed in the Circuit Court of the First Circuit, State of Hawaii, is attached hereto as Exhibit "B".

WHEREFORE, Defendant WAL-MART prays that the above-entitled action be removed from the Circuit Court of the First Circuit, State of Hawaii, to the United States District Court for the District of Hawaii.

DATED: Honolulu, Hawaii, January 4, 2018.

/s/ Normand R. Lezy  
NORMAND R. LEZY  
MICHAEL J. NAKANO  
Attorney for Defendant  
WAL-MART STORES, INC.